FILED
AUG 22 1984
ALEXANDER L. STEVAS,
CLERK

(5)

No. 84-14

In The

Supreme Court of the United States

October Term, 1983

BOARD OF TRUSTEES OF THE ALLEN CHAPEL OF THE A.M.E. CHURCH, ET AL.,

Petitioners,

v.

BETTY J. GROGANS, ET AL.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF OHIO

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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STATEMENT OF THE CASE

This action was originally brought in the Court of Common Pleas by a fictitious Board of Trustees (Pet. App. p. 3). The African Methodist Episcopal Church, Inc. was later joined to the action as a party plaintiff (Pet. App. p. 7).

In 1889 the City of Lancaster, Ohio under the direction of an 1814 real estate dedication deeded the real estate in question to three local residents "John C. Viney, George A. Moss and Louisa C. Strander, as Trustees of the African Methodist Church and their successors and assigns." (Pet. App. p. 2). The giving of this deed culminated the construction of a church on the property in question through the efforts of the local congregation (Pet. App. p. 3). All improvements and repairs to said property were made through the efforts of local residents with no assistance from the Petitioners (Pet. App. p. 5).

At the hearing a copy of the 1980 AME Discipline was admitted into evidence but there was no evidence presented by Petitioners that the AME church was hierarchial in nature in 1889 when the deed was executed or that there was any relationship between the local congregation and the national church at that time (Pet. App. pp. 12 & 14).

On appeal to the Fairfield County Court of Appeals, Petitioners made three assignments of error none of which were styled or argued as Constitutional Questions (Pet. App. pp. 10-15). Even in its notice of Appeal to the Supreme Court of the State of Ohio, Petitioners did not (as required by Rule 1 of the Rules of Practice of the Supreme

Court of Ohio) state that there was a substantial constitutional question. Petitioners first raised a constitutional question in their memorandum in Support of Jurisdiction to the Ohio Supreme Court.

Both the trial court and court of appeals found that the respondents, Betty Grogans, Stanley Carlisle and Mary Ball were the successor trustees to the initial local trustees named in the 1889 deed (Pet. App. pp. 8, 13). This was based on the findings that there were no other adverse local trustees in existence, that there had never been a deed or other form of conveyance from the initial local trustees or their successors in interest to Petitioners, that Petitioners never presented any evidence as to their relationship to the local congregation at the time the deed was executed or the nature of Petitioner's organization at the relevant period of time. Based on these findings and neutral principals of law as required by *Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440, 89 S. Ct. 601 (1961) (hereafter called *Blue Hull Memorial)* title was quieted in respondents.

ARGUMENT AGAINST GRANTING CERTIORARI

Petitioners position contains an irreconcilable contradiction. Throughout this case they have asked the courts to decide this case on "neutral principles" of real estate law but then insist that the court award them the real estate based on their interpretation of the 1980 Book of Discipline of the AME Church. The lower courts in con-

formity with the *Blue Hull Memorial* case have consistently refused to interpret the AME doctrine to determine the ownership question and become involved in doctrinal disputes. The courts have also noted that even if they were permitted to decide this case on the basis of the AME Discipline and church doctrine, Petitioners failed to introduce any evidence as to the nature of that doctrine in 1889 or when Petitioners become a hierarchial church. The 1980 AME Discipline does not contain these matters.

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CONCLUSION

Petitioners are asking the Court to overrule *Blue Hull Memorial* and to intervene and interpret church doctrine. It should also be noted that due to the findings of facts of the lower courts, Petitioners failed to establish their claim in any event thus rendering their claimed constitutional issues moot. For all these reasons certiorari should be denied.

Respectfully submitted,

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